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May 12, 2022

By ECF

Hon. Louis L. Stanton, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *FTC et al. v. Quincy Bioscience Holding Co., Inc. et al.* (No. 17-cv-00124-LLS)

Dear Judge Stanton:

Plaintiff the People of the State of New York, by Letitia James, Attorney General of the State of New York ("NYAG"), respectfully submits this reply to Defendant Mark Underwood's May 11, 2022 letter [Dkt. No. 244] in response to the NYAG's May 6, 2022 letter-motion for leave to file a cross-motion for summary judgment [Dkt. No. 242].

As noted in the NYAG's Opposition to Underwood's Motion for Partial Summary Judgment (filed May 6, 2022) [Dkt. Nos. 236 & 237] ("Opposition"), this Court has the discretion to grant summary judgment to a nonmovant, the NYAG. (Opposition at 21-22.) The NYAG's opposition brief presents more than adequate basis for summary judgment in the NYAG's favor on the issue of personal jurisdiction over the NYAG's claims against Underwood. For the reasons stated in the NYAG's Opposition, summary judgment on this issue is warranted and justified. Moreover, a grant of summary judgment would promote judicial economy by resolving an issue that the parties and the Court have already confronted multiple times. It would also, appropriately, remove a legal issue based on undisputed facts from the jury's charge.

Should the Court prefer a formal motion before granting such relief, the NYAG has requested leave to file such a motion in its letter-motion [Dkt. No. 242]. Underwood does not cite any rule that prohibits the NYAG from seeking such leave. Instead, he inexplicably argues

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that the NYAG's brief in opposition to his motion is somehow a motion in itself. No motion, however, has been filed, nor will it be filed unless and until the Court grants leave.

Respectfully submitted,

/s/ Kate Matuschak

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cc: Counsel of Record (via ECF)